

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )

Revision of Part 22 and Part 90 of the )  
Commission's Rules to Facilitate Future )  
Development of Paging Systems )

WT Docket No. 96-18

Implementation of Section 309(j) )  
of the Communications Act -- )  
Competitive Bidding )

PP Docket No. 93-253

**PETITION FOR PARTIAL RECONSIDERATION  
AND REQUEST FOR CLARIFICATION  
OF  
CONSOLIDATED COMMUNICATIONS TELECOM SERVICES, INC.**

**SUMMARY**

Consolidated Communications Telecom Services, Inc. ("CCTS"), by its attorneys, and pursuant to Section 1.429 of the Commission's Rules<sup>1</sup> hereby petitions the Commission for partial reconsideration of its recent decision in the above-captioned proceeding.<sup>2</sup> CCTS is the licensee of a paging system providing service in Central Illinois and parts of Indiana.<sup>3</sup> CCTS seeks reconsideration of the

<sup>1</sup> 47 C.F.R. § 1.429.

<sup>2</sup> Revision of Part 22 and Part 90 of The Commission's Rules to Facilitate Future Development of Paging Systems, Second Report and Order and Further Notice of Proposal Rulemaking, WT Docket 96-18, PP Docket 93-253, FCC 97-59 (released February 24, 1997) ("Second R&O"). The Second R&O was published in the Federal Register on March 12, 1997.

<sup>3</sup> CCTS originally filed comments in this proceeding under the name of Consolidated Communications Mobile Services ("CCMS"). On February 14, 1996, CCTS filed pro forma applications to effect a corporate restructuring. After grant of these applications, CCMS was merged into CCTS, which now holds the FCC paging licenses previously held by CCMS.

Commission's decision to use the Economic Areas developed by the Bureau of Economic Analysis of the Department of Commerce as the geographic licensing area for paging services in the 152-159 MHz frequency bands.

CCTS also requests that the Commission clarify that incumbent mobile telephone providers operating in the lower paging frequencies will be permitted to continue operating, receive full protection from interference from geographic licensees, and be permitted to obtain additional site licenses on a secondary basis.

### **BACKGROUND**

CCTS is a wholly-owned subsidiary of Consolidated Communications, Inc. ("CCI"), a mid-sized communications company headquartered in Mattoon, Illinois. CCI has a number of other subsidiaries, including Illinois Consolidated Telephone Company. CCTS operates a paging service network at 158.1 MHz which provides service in rural and suburban areas of Illinois and Indiana. CCTS's paging operations provide service in approximately 25 counties in Illinois and Indiana.<sup>4</sup>

CCTS's annual operating revenues are very low compared with the annual operating revenues of other paging service providers in the region operating at 158.1 MHz, such as Ameritech, MobileMedia, and GTE. Despite its small size, the paging service provided by CCTS is an integral part of the Central Illinois community. CCTS provides service to most of the hospital, ambulance, and fire protection organizations

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<sup>4</sup> CCTS's service area overlays a portion of three Major Trading Areas (Chicago, Indianapolis, and St. Louis) and nine Basic Trading Areas (Bloomington, Champaign, Danville, Decatur, Jacksonville, Mattoon, Mount Vernon, Springfield, and Terra Haute).

in its service area and, we believe, is the only provider of voice paging services to that emergency community.

On February 9, 1996 the Commission released a Notice of Proposed Rulemaking in this proceeding<sup>5</sup> in which the Commission proposed to replace the current site-by-site method of licensing paging operations with a geographic licensing scheme wherein single licenses would be issued for large geographic areas, specifically the Rand McNally Commercial Atlas Major Trading Areas ("MTA").<sup>6</sup>

CCTS filed comments requesting the Commission to reject geographic licensing or in the alternative to adopt BTAs as the appropriate geographic licensing areas. CCTS argued principally that the selection of MTAs disadvantaged small and mid-sized rural operators such as CCTS by forcing such operators to bid against large entities for large service areas that include major metropolitan areas. CCTS noted that approximately 90% of its service area occupied a modest portion of the Chicago MTA and small portions of the Indianapolis and St. Louis MTAs.

In the Second R&O, the Commission decided to use the Bureau of Economic Development's Economic Areas ("EAs")<sup>7</sup> as the geographic license area for paging operations in the low frequency paging bands.<sup>8</sup> In reaching this decision, the

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<sup>5</sup> Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems; Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, Notice of Proposed Rulemaking, FCC 96-52, February 9, 1996 ("NPRM").

<sup>6</sup> Rand McNally organizes the 50 states and the District of Columbia into 47 MTAs and 487 Basic Trading Areas ("BTAs").

<sup>7</sup> The Bureau of Economic Analysis of the Department of Commerce has divided the United States into 172 EAs. See Final Redefinition of the BEA Economic Areas, Department of Commerce, Docket No. 950-3020-64-5064-01, 60 Fed. Reg., 13114 (March 10, 1995).

<sup>8</sup> Second R&O at ¶ 24.

Commission agreed with numerous commentors, including CCI, that MTAs are too large for numerous small and mid-sized paging systems and instead selected slightly smaller EAs. However, the Commission rejected adopting BTAs as the appropriate geographic region (as suggested by CCTS).

Although the Commission's choice of EAs is a compromise from its original plan to use MTAs as the basis for geographical licensing, this shift does not address many of the concerns of smaller or rural paging operators such as CCTS. EAs include both rural and urban areas, are relatively large in size, and thus share much more in common with MTAs than BTAs. CCTS's primary concerns are that EAs prohibit small and rural businesses from participating in paging spectrum auctions, do not correspond to the service areas that small and rural paging operators seek to serve, and will result in delays in extending service to non-urban areas.

CCTS does not believe that the Commission adequately justified its reasons for choosing EAs over BTAs as the geographic licensing area for paging in the low frequency paging bands and believes that the Commission's decision was based on an inadequate record.<sup>9</sup> Accordingly, CCTS requests that the Commission reconsider its decision to use EAs as the geographic licensing area and adopt BTAs instead.

## **ARGUMENT**

### **A. Use of EAs Will Prohibit Small and Rural Companies From Seeking Geographic Paging Licenses and Will Delay Service To Rural Areas**

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<sup>9</sup> See Second R&O at ¶ 23. The Commission's analysis was confined to one paragraph and was entirely hypothetical. The Commission did not compare EAs to the size or location of existing paging operations or make any concrete finding regarding the decision to choose EAs over BTAs.

The Commission's choice of EAs as the geographic licensing area for paging operations in the low frequency paging bands will effectively prohibit small and rural companies from participating in paging license auctions and from otherwise obtaining geographic paging licenses. Sections 309(j)(3)(B), (4)(C), and (4)(D) of the Communications Act requires the Commission to ensure that its competitive bidding procedures and geographic licensing areas result in the dissemination of licenses to small businesses, rural telephone companies, and minority and women owned businesses.<sup>10</sup> This requirement is intended to promote economic opportunity and competition and ensure that new and innovative services are readily available to the public.<sup>11</sup> However the adoption of EAs as the geographic licensing area for paging operations in the low frequency paging bands effectively prevents small and rural businesses from participating in paging auctions, a clear violation of Section 309(j).

EAs encompass large geographic areas that include major urban areas as well as suburban and rural areas. Only large, well-financed companies will be able to afford to pay the high cost of obtaining the spectrum and building out these large areas. Smaller rural companies such as CCTS cannot compete with such companies, particularly where the small, rural companies primary interest is in obtaining additional rural and suburban territory. Thus, small and rural paging companies are effectively prohibited from participating meaningfully in a paging license auction where the geographic area is an EA.

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<sup>10</sup> 47 U.S.C. § 309(j)(3)(B), (4)(C), and (4)(D).

<sup>11</sup> 47 U.S.C. § 309(j)(3)(B).

The partial availability of designated entity concessions (bidding credits, installment payments, etc.) does not alleviate this concern. Although certain smaller and rural paging operators may qualify for some designated entity concessions, not all rural paging companies would fit within the Commission's definition of a designated entity. In fact, CCTS does not qualify as a designated entity.

The Commission's decision to allow partitioning of paging licenses also does not address the concerns of small and rural companies. Partitioning places incumbents at the mercy of larger geographic licensees to get partitioned licenses in order to expand. Larger geographic licensees have every incentive to resist partitioning of licenses until, and unless, they are certain that the partitioning will benefit them. Moreover, large geographic licensees have an incentive to prevent incumbents from expanding. The prospect of negotiating with a larger and better capitalized company for a partitioned license is a poor substitute for meaningful participation in a spectrum auction and does not satisfy the requirements of Section 309(j).

Sections 309(j)(3)(A), (4)(B), and (4)(C) require the Commission to adopt competitive bidding procedures and geographic areas that ensure rapid deployment of new technologies, products, or services to the public, including those residing in rural areas.<sup>12</sup> The choice of EAs as the geographic licensing area for paging services in the lower paging bands will have the opposite effect. Because of the large size of EAs and significant costs associated with rural build-out, it is likely that geographic licensees will develop their paging operations in urban areas leaving rural areas

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<sup>12</sup> 47 U.S.C. 309(j)(3)(A), (4)(B), and (4)(C).

unserved or underserved. Smaller rural incumbents would be more likely to provide rapid service to rural areas adjacent to their service area if they could obtain licenses for reasonably sized rural geographic areas without having to compete with large, better financed companies. Moreover, geographic licenses of EA's have no incentive to partition such rural areas. Where an incumbent may have an immediate desire to serve a rural area adjacent to its existing territory, the geographic licensee has an incentive to hold on to the area to avoid being required to buy back the license for the area at a later date.

**B. EAs Do Not Adequately Correspond to the Geographic Areas That Small and Rural Paging Operators Seek To Serve**

CCTS agrees with the Commission that the geographic definition used for paging licenses in the lower frequency paging bands should correspond as much as possible to the geographic area that paging licensees seek to serve.<sup>13</sup> However, CCTS does not believe the use of EAs for the geographic paging area furthers this goal. Moreover, the Commission did not make any finding that suggests that it found EAs to be representative of actual paging service areas.

The primary problem with EAs is that, like MTAs, EAs include major urban centers of economic activity and their surrounding suburban and rural areas. While these large, primarily urban-oriented areas may be attractive to large urban paging operators, they do not reflect the actual service area or market of small and rural

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<sup>13</sup> NPRM at ¶ 33; Second R&O at ¶ 24.

paging operators. This fact is best illustrated by comparing CCTS's actual service area with the boundaries of the relevant EAs.

CCTS's paging service area covers approximately 40 counties in central Illinois and Western Indiana.<sup>14</sup> Attachment 1 shows CCTS's approximate service area. Attachment 2 shows CCTS's service area as it relates to the EAs partially covered by CCTS's service area. Of those EAs, CCTS only provides service to a majority of the area for the Champaign-Urbana EA. Nevertheless, CCTS serves counties included in or bordering on, the EAs that include three of the nation's largest metropolitan areas: Chicago, St. Louis, and Indianapolis. Clearly these areas are not at all representative of CCTS's actual service areas. Accordingly, the Commission's geographic licensing parameters would require CCTS to compete in multiple markets covering major metropolitan areas to have any hope of expanding its operations. The same is true of the many other small or mid-sized rural paging operators who's current service areas do not correspond neatly to EA boundaries.

**C. BTAs Are the Appropriate Geographic Area for Paging Licenses in the Lower Frequency Paging Bands**

CCI believes that the Commission should establish BTAs as the appropriate geographic licensing area. The use of BTAs would allow both small and large paging

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<sup>14</sup> CCI's paging service area includes portions of or borders upon as many as 7 EAs including:

64 - Chicago - Gary - Kenosha  
101 - Peoria - Pekin  
97 - Springfield  
96 - St. Louis  
68 - Champaign - Urbana  
69 - Evansville - Henderson  
67 - Indianapolis



operators to piece together efficient custom service areas consistent with narrowly tailored business plans for serving well-defined geographic regions. Moreover, incumbent paging licensees would be able to pursue licenses for those geographic areas most likely to enhance their existing operations without having to compete with better financed, large companies for expensive, highly-populated regions.

CCI believes the use of BTAs could also greatly increase revenues brought in by the auction by encouraging more, smaller entities to participate in the auction and by stimulating competition for rural areas. Such rural areas might suppress the price of EAs as carriers interested in serving highly populated regions might be concerned about the build-out costs associated with such large regions. By adopting BTAs as the geographic licensing area, companies interested in serving urban and suburban areas could pursue those licenses without such concerns. Similarly rural operators could pursue licenses for rural areas without being forced to compete with urban operators. This flexibility will doubtlessly attract many more participants to the FCC's paging auctions and will result in overall higher prices paid for geographic paging licenses.

Finally, the added burden of conducting auctions and using and monitoring licenses for 477 BTA licenses as opposed to 172 EA licenses is minor. The Commission has successfully auctioned thousands of licenses in single simultaneous auctions such as the Broadband PCS D, E, and F Block Auction.

### **REQUEST FOR CLARIFICATION**

CCTS is a licensed operator of low frequency paging band transmitters in Central Illinois dedicated to the provision of mobile telephone services. In the Second R&O, the Commission concluded that mobile telephone service provided on the low frequency paging bands should be subject to geographic licensing and competitive bidding on the same terms as paging services on these bands. However, the Commission did not appear to directly address the issue of whether incumbent mobile telephone operators will be permitted to continue operating and be fully protected from interference by geographic area licensors. The Commission specifically granted such protection to providers of Rural Radiotelephone Service and BETRS operators.

CCTS believes that the Commission intended to apply these protections to incumbent mobile telephone service providers. Out of an abundance of caution, CCTS requests that the Commission clarify that incumbent mobile telephone service providers will be permitted to continue operating on a fully protected basis and will be permitted to obtain additional site licenses on a secondary basis.

### **CONCLUSION**

For the reasons stated herein, CCTS requests that the Commission reconsider its decision to adopt EAs as the geographic area for paging licenses in the low frequency paging bands and adopt BTAs instead. CCTS also requests that the Commission clarify that incumbent mobile telephone service providers will be

permitted to continue operating on a fully protected basis and will be permitted to obtain additional site licenses on a secondary basis.

Respectfully submitted,

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April 11, 1997

## CERTIFICATE OF SERVICE

I, Gail M. Mullen, do hereby certify that a copy of the foregoing Petition of Consolidated Communications Telecom Services, Inc., was sent by first class United States mail, postage prepaid, or by hand delivery or facsimile where indicated by an asterisk (\*), this 11th day of April, 1997 to the following:

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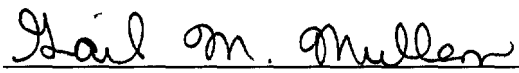
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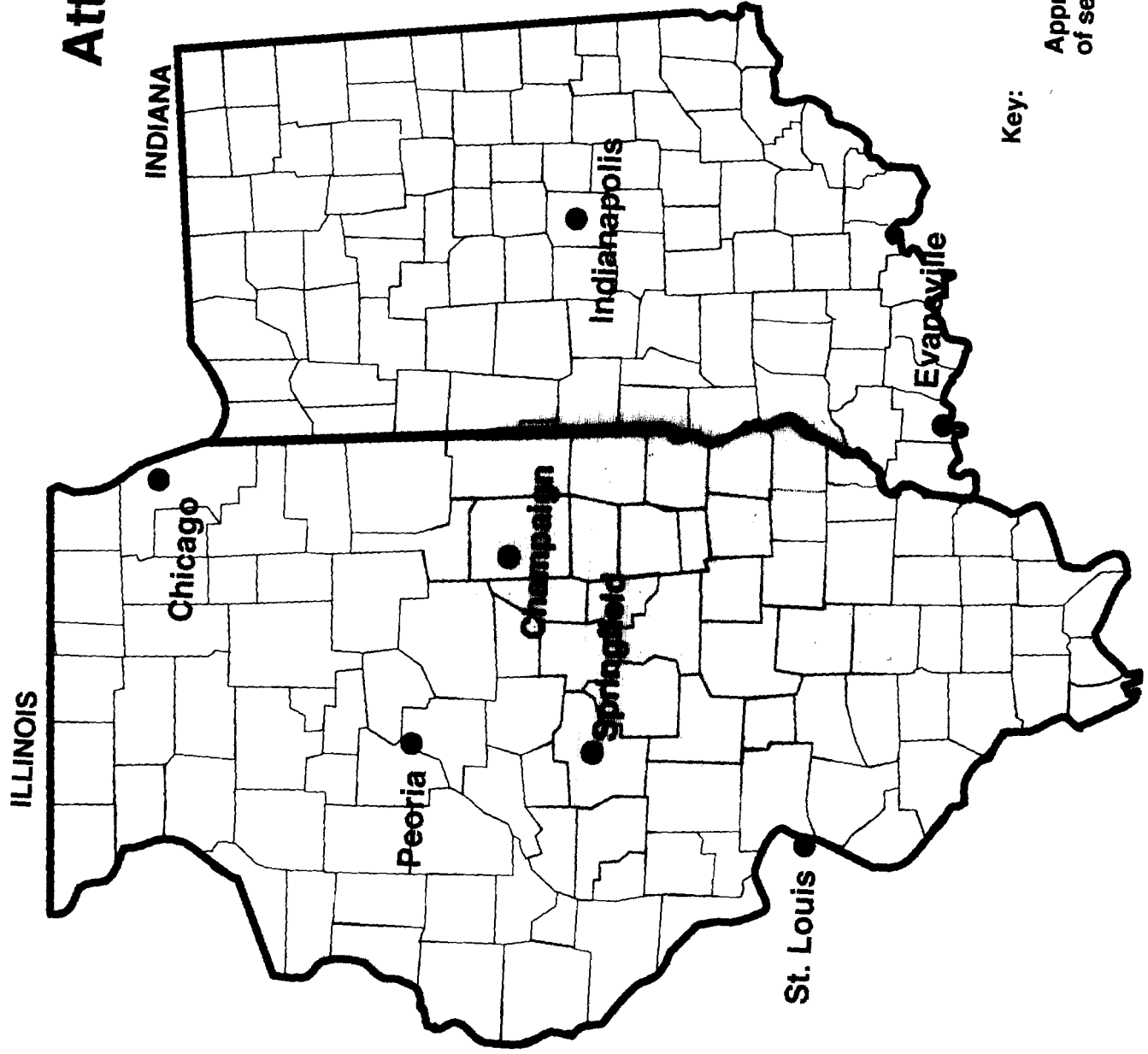
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# Attachment 1



Key:

Approximate contours  
of service area

# Attachment 2

